IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ **IA No.11300/2007 & CS (OS) No.513/2005**

% Judgment delivered on: 01.10.2007

COLGATE-PALMOLIVE COMPANY & ANOTHER .... Plaintiffs

versus

M/S HINDUSTAN RIMMER .... Defendant

Advocates who appeared in this case:-
For the Plaintiffs : Ms Ishani Sahiwal with Mr Bhagwati Prasad
For the Defendant : Mr Gaurav Miglani & Mr Kapil Kumar Giri

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether the Reporters of local papers may be allowed to see the judgment ?

2. To be referred to the Reporter or not ?

3. Whether the judgment should be reported in the Digest ?

BADAR DURREZ AHMED, J (ORAL)

1. The defendant and the plaintiffs have decided to settle the matter. This is an application filed jointly by the plaintiffs and the defendant under Order 23 Rule 3 read with Section 151 of the Code of Civil Procedure, 1908 for recording the settlement and / or compromise and decreeing the suit in terms thereof.

2. The defendant has acknowledged the plaintiffs to be the proprietors of Colgate Label Mark, which is the subject matter of the present suit as well as of the registered trademark for the dental cream red and white label under No.190279 and the label marks under No.319139, 319140. The defendant has also undertaken that it will not

manufacture, sell, offer for sale, advertise, directly or indirectly deal in goods and services under a label / packaging / design as contained in Annexure J, K, K-1 and L filed with the plaint or any other label / packaging / design identical or deceptively and / or confusingly similar to the plaintiffs' distinctive get up or trade dress as contained in Annexures A to H to the application and / or confusingly similar to the plaintiffs distinctive get up or trade dress amounting to or likely to lead to passing off their goods or business as and for those of the plaintiffs. The defendant has also given other undertakings which are recorded in the application.

3. In view of the agreement entered into between the parties and the undertakings given by the defendant as recorded in the application itself, it is prayed that the compromise be recorded and a decree be passed in terms of para 26 (i) to (iii) of the amended plaint in favour of the plaintiffs and against the defendant. It is also stated that the plaintiffs give up their claims in respect of the prayers contained in para 26 (iv), (v), (vi) and (vi) (a) of the amended plaint. The application has been signed by Mr K.V. Vaidyanathan, who is the constituted attorney of the plaintiff No.1 and by Mr Sanjeev Shrivastav, who is the authorised signatory of the plaintiff No.2. Mr Shobhan Lal Jain, who is the proprietor of the defendant has also signed this application. The same has also been signed by the respective counsel for the parties. It is

supported by the affidavits of the said Mr Shobhan Lal Jain, Mr K.V. Vaidyanathan and Mr Sanjeev Shrivastav.

4. I have gone through the terms of the settlement agreement entered into between the parties. The same appears to be lawful and there is no impediment in recording the compromise / settlement and a decree being passed in the suit as prayed for. This application alongwith its annexures is marked as Exhibit C-1. The suit is decreed in terms of prayers contained in para 26 (i) (ii) and (iii) of the amended plaint in favour of the plaintiffs and against the defendant. The prayers contained in sub-para (iv) (v), (vi) and (vi) (a) of para 26 of the amended plaint are given up by the plaintiffs and the suit is dismissed in respect of these prayers.

5. This application (Exhibit C-1) shall form part of the decree. It is clarified that the defendant shall be permitted to use his trademark Cosmo as indicated in para 6 of this application.

This application, the suit and all other pending applications stand disposed of. The next date fixed in the matter stands cancelled.

BADAR DURREZ AHMED
(JUDGE)

October 01, 2007
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